

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

LYNNE L. THOMPSON,

Plaintiff,

21cv1252

ELECTRONICALLY FILED

v.

ALLEGHENY COUNTY DISTRICT
ATTORNEY'S OFFICE, et al,

Defendants.

**ORDER OF COURT
ADOPTING REPORT AND RECOMMENDATION FILED AT ECF 69**

Plaintiff, Lynne Thompson filed a *pro se* action in the above-captioned case on September 17, 2021. ([ECF 1](#)) Plaintiff's Complaint (which is exceedingly difficult to understand) asserts claims against various defendants, including three magisterial district judges, the Allegheny County District Attorney's Office and several of its employees, and Bitar. *Id.* Plaintiff's Complaint claims that Bitar is the person who "started it all." *Id.*

On November 22, 2021, Plaintiff filed a Motion for Default Judgment and Brief against Bitar, contending that she served a copy of "this within Civil Action" to Bitar by FedEx at his law office on September 17, 2021, and that service was accepted. ECF No. 26, ¶ 1. Because Bitar had not entered his appearance as of November 22, 2021, Plaintiff argued that the Court should enter default judgment against him. *Id.* ¶¶ 2-3.

On December 6, 2021, counsel for Bitar entered his appearance. ECF No. 29. Bitar then filed a Response to the Motion to Default Judgment on December 17, 2021. ECF No. 35. Bitar argued that Plaintiff never properly served him, because mailing a copy of a complaint to an individual at his place of business is not proper service, there was no record that Plaintiff served a summons, and she failed to submit proof of service. *Id.* at 1-3.

United States District Court Magistrate Judge Maureen Kelly, who initially reviewed this issue, found that Plaintiff's Motion for Default Judgment should be denied. Magistrate Judge Kelly noted that Under Federal Rule of Civil Procedure 55, Plaintiff's Motion for Default Judgment was premature because she did not first request the Court to enter default. does not comply with Federal Rule of Civil Procedure 8. ECF 53 and ECF 54.

On August 17, 2022, upon this Court's independent review of the Record, and upon consideration of Magistrate Judge Kelly's May 5, 2022 Report and Recommendation, this Court adopted the Magistrate Judge's May 3, 2022, Report and Recommendation ([ECF 54](#)) as the Opinion of this Court, denying Plaintiff's Motion for Default Judgment against Defendant Bitar. ECF 58.

Simultaneous to the filings related to Plaintiff's Motion for Default Judgment against Defendant Bitar, Defendants filed Motions to Dismiss Plaintiff's Complaint. See ECF 20, ECF 23, and ECF 30. Magistrate Judge Kelly granted Plaintiff five extensions of time to file her responses to these motions, but despite these many extensions, Plaintiff failed to respond to any of the motions. Magistrate Judge Kelly issued a Report and Recommendation on May 3, 2022, recommending that this Court deny each Defendant's Motion to Dismiss, without prejudice, but allow Plaintiff to file an Amended Complaint in strict accordance with the guidelines set forth in her Report and Recommendation. ECF 53. No party filed any objections to this Report and Recommendation. Therefore, on August 17, 2022, this Court adopted Magistrate Kelly's Report and Recommendation (ECF 53) as the Opinion of this Court, dismissing Defendants' Motions to Dismiss without prejudice, and ordered Plaintiff to file an Amended Complaint on or before August 31, 2022. ECF 57.

On August 26, 2022, Plaintiff filed a “response” to the Court’s Order filed at ECF 57. ECF 59. This Court explained by way of an Order that if Plaintiff sought to appeal the Court Order entered at ECF 57, she had to do so by filing the appropriate paperwork with the United States Court of Appeals for the Third Circuit. ECF 60.

Despite the August 31, 2022 deadline, Plaintiff failed to file an Amended Complaint. On September 7, 2022, Defendant Allegheny County District Attorney’s Office, Defendant Richard Byers, and Defendant Steven Zappala filed a renewed Motion to Dismiss Plaintiff’s Complaint. ECF 61. On September 14, 2022, Defendant Bitar filed a renewed Motion to Dismiss. ECF 64. Magistrate Judge Kelly ordered Plaintiff to respond to these motions by October 7, and October 14, 2022, respectively. ECF 66.

On October 5, 2022, Plaintiff requested additional time to respond to these motions. ECF 67. On October 6, 2022, Magistrate Judge Kelly granted Plaintiff an additional 30 days to respond to both of the motions. ECF 68. Plaintiff never filed a response to either motion.

On November 21, 2022, Magistrate Judge Kelly issued her Report and Recommendation recommending that this Court grant the Motions to Dismiss filed by Defendant Allegheny County District Attorney’s Office, Defendant Richard Byers, Defendant Steven Zappala and Defendant Bitar. ECF 69. Objections to this Report were due by December 5, 2022.¹ Id. No party filed objections.

Upon this Court’s independent review of the Record, and upon consideration of Magistrate Judge Kelly’s November 21, 2022, Report and Recommendation:

¹ The Court notes that Plaintiff filed this Complaint from the Allegheny County Jail (“ACJ”) on September 17, 2021. During the duration of this lawsuit, Plaintiff had remained in custody at ACJ and all written communications from the Court were sent to her at the ACJ. Magistrate Judge Kelly mailed Plaintiff a copy of the November 21, 2022, Report and Recommendation on December 28, 2022, it was returned. The docket contains the notation that “Thomson was released [from ACJ] on 11/22/22 with no forwarding address.” ECF 71.

IT IS HEREBY ORDERED that the entirety of Magistrate Judge's November 21, 2022, Report and Recommendation (ECF 69) is adopted as the Opinion of this Court.

Accordingly, the Motions to Dismiss filed by Defendants Allegheny County District Attorney's Office, Richard Byers, Steven Zappala, and Raymond Bitar are GRANTED.

IT IS ALSO ORDERED that all of Plaintiff's claims set forth in her Complaint against Defendants Linda Zurcco, Eugene Riazzi, Jr., and Anthony DeLuca are hereby *sua sponte* DISMISSED. In reaching this conclusion, this Court adopts Magistrate Judge Kelly's analysis of Plaintiff's Complaint and her [in]actions under the six *Poulis* factors against these remaining Defendants.

The Clerk of Court is hereby ORDERED to mark this case CLOSED.

SO ORDERED, this 24th day of February, 2023.

s/Arthur J. Schwab

Arthur J. Schwab
United States District Judge

cc: All Registered ECF Counsel and Parties
and
Lynne Thompson
Box 17233
Pittsburgh, PA 15235